In the Supreme Court of the United States

OCTOBER TERM, 1969

No. 364

JOHN W. CAMPBELL, PETITIONER

v.

F. W. GOOCH, JR., ET AL.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

MEMORANDUM FOR THE RESPONDENTS IN OPPOSITION

Petitioner, an employee of the Philadelphia Naval Shipyard, instituted a series of actions in the United States District Court for the Eastern District of Pennsylvania against the United States and the Commander of the Shipyard, seeking promotion to the position of Supervisory Inspector of Shipbuilding. A district court order of April 2, 1968, consolidated four of these actions for purposes of hearing of motions and pre-trial discovery. On September 30, 1968, the district court entered a second order, assigning

"for all purposes" a fifth action to the same judge to whom the other actions had been assigned. The court of appeals dismissed petitioner's appeal from this order.

The dismissal of the appeal was correct. As the court of appeals noted, the district court's order was interlocutory. Since it was not of the class of interlocutory orders appealable under 28 U.S.C. 1292(a), and the district court did not make the certification requisite to an interlocutory appeal under 28 U.S.C. 1292(b), the court of appeals lacked jurisdiction to entertain the appeal.

The petition for a writ of certiorari should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

AUGUST 1969.

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